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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/826,109	04/04/2001	Fumihiko Nishio	7217/64311	2753

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EXAMINER

ZHONG, CHAD

ART UNIT

PAPER NUMBER

2152

DATE MAILED: 01/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/826,109	Applicant(s) NISHIO ET AL.	
	Examiner Chad Zhong	Art Unit 2154	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 September 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 2152

FINAL ACTION

1. This action is responsive to communications: Amendment, filed on 09/30/2004. This action has been made final.
2. Claims 1-9 are presented for examination. In amendment A, filed on 09/30/2004: claims 1, 5-9 are amended.
3. It is noted that although the present application does contain line numbers in specification and claims, the line numbers in the claims do not correspond to the preferred format. The preferred format is to number each line of every claim, with each claim beginning with line 1. For ease of reference by both the Examiner and Applicant all future correspondence should include the recommended line numbering.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371 (c) of this title before the invention thereof by the applicant for patent.

4. Claims 1-9 are rejected under 35 U.S.C. 102(e) as being anticipated by Colby et al. (hereinafter Colby), 6,625,643.
5. As per claim 1, Colby teaches an information providing apparatus for delivery of content data, comprising:
content data input means for operation by a user to input content data (Col. 7, lines 54-67, wherein the data can be entered manually by the operator);

Art Unit: 2152

storing means for storing the content data provided by the content data input means (Fig 1; Col. 7, line 54 – Col. 8, line 5, wherein the data entered are stored in the database); and

delivery designating means for designating a delivery condition set by the user including one of a transmission band and a transmission path for delivering the content data (Col. 28, lines 15-20; Col. 27, lines 31-37; Col. 19, line 65 – Col. 20, line 2; Col. 23, lines 50-30),

wherein a delivering apparatus presents data necessary for determining the delivery condition that is designated by the user of the delivery designating means (Col. 28, lines 15-20; Col. 27, lines 31-37; Col. 25, lines 20-21; Col. 26, lines 25-30).

6. As per claim 2, Colby teaches the information providing apparatus as set forth in claim 1, further comprising:

communicating means for transmitting the content data provided to the delivering apparatus (Col. 5, lines 60-67; Col. 8, lines 1-5).

7. As per claim 3, Colby teaches the information providing apparatus as set forth in claim 1, wherein the data necessary for determining the delivery condition is a number of audiences for the content data delivered (Col. 5, lines 25-30).

8. As per claim 4, Colby teaches the information providing apparatus as set forth in claim 1, wherein the data necessary for determining the delivery, condition is a delivery cost (Col. 5, lines 25-30, wherein the delivery cost is in terms of bandwidth).

9. As per claim 5, Claim 5 is rejected for the same reasons as rejection to claim 1 above.

10. As per claim 6, Colby teaches a delivering apparatus for delivering content data, comprising:

first communicating means for receiving content data provided from an information provider including a delivery condition including one of a transmission band and a transmission path set

Art Unit: 2152

by a user of the information provider (Fig 1; Col. 28, lines 15-20; Col. 27, lines 31-37; Col. 19, line 65 – Col. 20, line 2; Col. 23, lines 50-30);

storing means for storing the content data;

transmitting means for delivering the content data to a receiving terminal unit (Col. 28, lines 15-20; Col. 27, lines 31-37);

second communicating means for receiving user profile information from the receiving terminal unit (Col. 5, lines 25-35);

profile storing means for storing the user profile information (Fig 1; Col. 5, lines 25-35);

charging process controlling means for calculating a cost corresponding to the delivery of the content data (Col. 26, lines 24-29, lines 40-45); and

band controlling means for controlling a band used for delivering the content data (Col. 5, lines 25-35) based on the delivery condition set by the user of the information provider, (Col. 28, lines 1-18)

wherein the charging process controlling means pre-calculates a size of an audience for a content corresponding to the user profile information, calculates the cost corresponding to the delivery of the content data, and informs an information providing apparatus of the cost (Col. 5, lines 25-35; Table 4; Col. 26, lines 24-29, lines 40-45; Col. 27, lines 30-40, wherein the cost of delivery comprising of calculation of availability of bandwidth requirements).

11. As per claim 7, Colby teaches a delivering apparatus for delivering content data, comprising:

first communicating means for receiving the content data provided from an information provider including a delivery condition including on of a transmission band and a transmission path set by a user of the information provider(Fig 1; Col. 28, lines 15-20; Col. 27, lines 31-37; Col. 19, line 65 – Col. 20, line 2; Col. 23, lines 50-30; Col. 28, lines 15-20);

Art Unit: 2152

storing means for storing the content data;

transmitting means for delivering the content data to a receiving terminal unit (Col. 28, lines 15-20; Col. 27, lines 31-37);

second communicating means for receiving user watching/listening history from the receiving terminal unit (Col. 5, lines 25-35; Col. 25, lines 20-21; Col. 23, lines 65-67; Col. 24, lines 1-6; Col. 7, lines 47-55; Col. 5, lines 25-37);

watching/listening history storing means for storing the user watching/listening history;

charging process controlling means for calculating a cost corresponding to the delivery of the content data (Col. 26, lines 24-29, lines 40-45); and

band controlling means for controlling a band of a network used for delivering the content data (Col. 5, lines 25-35) based on the delivery condition set by the user of the information provider (Col. 28, lines 1-18),

wherein the charging process controlling means pre-calculates a number of audiences for the content data corresponding to the watching;

listening history, calculates the cost corresponding to the delivery of the content data, and informs an information providing apparatus of the cost (Col. 5, lines 25-35; Table 4; Col. 26, lines 24-29, lines 40-45).

12. As per claims 8-9, Claims 8-9 are rejected for the same reasons as rejection to claims 6-7 above respectively.

Conclusion

13. In the remark, the Applicant argued in substance that Colby fails to disclose or suggest

Art Unit: 2152

of providing a delivery designating means, for example, or designating a delivery condition set by the user including one of a transmission band and a transmission path for use in delivery the content data.

In response to Applicant's amendment, Colby teaches the above sections.

Referring to Col. 7, lines 54-67, Colby discloses a manually operated topology manager wherein the users can enter desired information into the database; next user is further capable of selecting the path for the delivery to take place as taught by sample section of Col. 19, lines 65 – Col. 20, lines 2; Finally, finite bandwidth limitations and user desired bandwidth plays an important role in Colby's system by allowing the user to elect the amount of bandwidth as taught by Col. 28, lines 1-18 and Col. 17, lines 30-35. Thus, Colby teaches the above.

THIS ACTION IS MADE FINAL. Applicant is reined of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents and publications are cited to further show the state of the art with respect to "INFORMATION PROVIDING APPARATUS, INFORMATION PROVIDING METHOD, DELIVERING APPARATUS, AND DELIVERINGMETHOD".

Art Unit: 2152

- i. US 6405239 Addington et al.
- ii. US 6446108 Rosenberg et al.
- iii. US 6219700 Chang et al.
- iv. US 6512754 Feder et al.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chad Zhong whose telephone number is (571)272-3946. The examiner can normally be reached on M-F 7:15 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, BURGESS, GLENTON B can be reached on (571)272-3949. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CZ

December 19, 2004


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